

Application No. 09/781,110  
Amendment "C" dated February 7, 2006  
Reply to Office Action mailed December 1, 2005

### REMARKS

The Office Action, mailed December 1, 2005, considered and rejected claims 1-5, 9-23, 25, 26 and 28-33. Claims 1-5, 9-23, 25, 26, 28-30 and 33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al (U.S. Publication No. 2003/0044165) in view of Yeo (U.S. Patent No. 6,711,741), and further in view of Knee et al (U.S. Patent No. 6,014,184). Claim 31 was rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al in view of Yeo and Knee et al as applied to claim 1 above, and further in view of Wugofski (U.S. Patent No. 6,507,951). Claim 32 was rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al in view of Yeo and Knee et al as applied to claim 1 above, and further in view of Yi (U.S. Patent No. 6,094,427).<sup>1</sup>

By this paper, claims 1 and 21 have been amended and new claim 34-35 has been added, such that claims 1-5, 9-23, 25, 26 and 28-35 remain pending, of which claims 1, 21 and 32 are the only independent claims at issue.<sup>2</sup>

As discussed during the interview, the pending claims are generally directed to embodiments for automatically recording a fragmented program that includes a series of fragments that are temporally separated from each other and that have been designated as being related one to another. The method recited in claim 1, for example, includes providing a list of categories that include one or more fragmented programs for selection to a user; identifying with electronic program guide data each of one or more fragmented programs that corresponds to the

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<sup>1</sup> Although the prior art status and some of the assertions made with regard to the cited art is not being challenged at this time, inasmuch as it is not necessary following the amendments and remarks made herein, which distinguish the claims from the art of record, Applicants reserve the right to challenge the prior art status and assertions made with regard to the cited art, as well as any official notice, which was taken in the last office action, at any appropriate time in the future, should the need arise, such as, for example in a subsequent amendment or during prosecution of a related application. Accordingly, Applicants' decision not to respond to any particular assertions or rejections in this paper should not be construed as Applicant acquiescing to said assertions or rejections.

<sup>2</sup> Support for the new amendments is found in the specification, including the disclosure found on pp. 5 and 18-20.

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selected category and that is scheduled to be displayed during a specific period of time, wherein the electronic program guide data used to identify the one or more fragmented programs includes a unique identifier that is assigned to each fragment in a group of fragments that are designated by a network as being related, such that the unique identifier is common to each fragment within a corresponding grouping of programs, which are identified by the network as being related, and such that each fragment corresponding to the fragmented program grouping have a same unique identifier and that is distinguished and independent from a program title; displaying in a fragmented program list, each of the identified one or more fragmented programs corresponding to the selected category, wherein the fragmented program list only includes the identified one or more fragmented programs; receiving user input requesting one or more of the displayed fragmented programs in the list to be recorded without requiring the user to separately identify each of the fragments associated with the fragmented programs; and examining the electronic program guide data and identifying each of the fragments corresponding to the selected one or more fragmented programs for each of the identified fragments, automatically determining a start time for the fragment and recording the fragment with the video recording apparatus when the fragment is aired.

Claims 21 and 26 are directed to corresponding systems and computer program products for implementing the method of claim 1.

It was previously discussed during an in person interview how Wood and Knee fail to disclose the claimed invention. While these references disclose EPG schedule systems, and while the system of Wood can be used to record programming, these references clearly fail to disclose or suggest a system as claimed, wherein a list of categories is displayed and then, after selection of one of the categories, the system identifies each of one or more fragmented programs

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that corresponds to the selected category and that is scheduled to be displayed during a specific period of time, particularly when considering the fragmented programs are identified with electronic program guide data that includes a unique identifier that is specific to a fragmented program and is common to each fragment within a corresponding fragmented program and such that each fragment corresponding to the fragmented program have a same unique identifier and that is distinguished from a program title.

In view of the foregoing, it was suggested that it might be inherently obvious to utilize such unique identifiers. However, as discussed during the interview, and as was finally generally agreed to during the interview, this is simply not true. Nevertheless, it appears that this line of reasoning is still being suggested, however, in the last action on page 3. Applicants respectfully traverse this line of reasoning. For example, other means could also be used by systems to identify programming, such as a series name, title, etc., each of which can be used within the database to perform a search. It is simply inaccurate to suggest that it would be inherent for a unique identifier to be provided to identify related programs. This analysis relies on improper hindsight reconstruction.

In the last office action Yeo was also introduced as purportedly teaching that a unique identifier can be attached to fragments within a corresponding fragmented program. It should be appreciated, however, that Yeo does not disclose or suggest that the fragments are independent and separate programs from other fragment programs, as claimed. Instead, the fragments in Yeo all belong to the same program, such as the Titanic. In fact, the fragments appear to be nothing more than screen shots of a common program.

This is contrasted with the presently claimed embodiments, wherein the fragments are separate programs (such as sitcoms, sporting events or other independent programs) that are

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separate and distinct from other fragments, even though they may have some relation. The relationship between the fragments is also claimed as being established by a network, something that is neither described or suggested by the art of record, particularly when considering that the relationship may be based on an actor or theme (new claims 34-35), and wherein the related fragments are then assigned a unique identifier to reflect their relationship. There is no need for the network to define or identify relationships between different fragment programs in Yeo because all of the fragments all belong to the same program.

In view of the foregoing, the rejections of record are now moot, such that it is not necessary to address each of the other assertions of record in the last response. Nevertheless, Applicants reserve the right to challenge any of said assertions in the future. Accordingly, although the foregoing remarks are primarily directed to the independent claims, it will be appreciated that the dependent claims should also be found allowable over the art of record for at least the same reasons. Accordingly, it is not necessary to individually address the rejections to each of the dependent claims at this time. Nevertheless, new dependent claim 32 will be addressed by the following remarks, as discussed during the interview, to even further distinguish the claimed invention over the art of record.

Although it is not necessary, Applicants will address claim 32, which recites an embodiment in which the fragments of the fragmented programming are broadcast over a plurality of different networks. Such an embodiment is clearly neither anticipated nor made obvious in view of the art of record. The last action cited a new reference, Yi, as purportedly teaching this element. However, it Yi relates to systems and methods for handing off communications between cell-to-cell, beam-to-beam, or satellite-to-satellite. This does not relate


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at all to receiving different fragments, as described above, over different networks, particularly when considering that the fragments are different and independent programs, as claimed.

In view of the foregoing, Applicants respectfully submit that the pending claims are in condition for immediate allowance. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

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Respectfully submitted,



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